



**A Publication of the
DEPARTMENT OF REGULATION AND LICENSING**

Volume 12, No. 2 FOR REAL ESTATE LICENSEES September, 1999

A Message from the Chair, by James R. Imhoff, Jr.

Referral Fees. As I told you in the past, the Board has been keeping a close eye on the deliberations in other states concerning the practice of requiring payment of a referral fee as a result of a consumer's relationship with an affinity group or because the referral is made through a relocation company. The Board had considered conducting a hearing following one of its meetings this spring, for the purpose of obtaining more information about such problems in Wisconsin; however, we decided that no hearing is necessary at this time. The Wisconsin marketplace seems to be working out any problems relating to referral fee practices and it appears that no new administrative rules are needed.

Areas of Concern. There are currently two issues that continue to confront our investigators. First, the issue of cooperation between real estate firms. Remember that your license law does require a listing firm to cooperate and give access to its listings to all licensees unless specifically and clearly a seller excludes such cooperation in the listing contract. The rules do not mandate sharing commissions in any way, shape or form. The rule just mandates cooperation and access.

THE WISCONSIN REAL ESTATE BOARD

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Second, there still seems to be a problem with licensees getting the agency disclosure form signed

before providing brokerage services. Some licensees neglect to do so until the offer is written. This may be a violation. But of greater importance is the ramification of the buyer not knowing the consequences of the licensee representing the seller.

A recent appeals court decision ruled against a licensee who had the disclosure form signed at the same time as the offer to purchase. The buyer did not get the option of being represented by the licensee and get the benefits of such representation which caused harm to the buyer. The rule is simple – have the disclosure signed prior to showing properties and giving brokerage services.

Administrative Rules. It seems that we never come to an end to administrative rulemaking. We finish one set of rules and a few new issues pop up for consideration. The next rulemaking we are considering may not be very complex and may not take a whole lot of paper to explain. However, it will bring a few more policies in tune with the times. We're looking at supervision of salespersons, the role of branch office managers, the submittal of offers to buyers through a buyer's agent, conditions for placing offers on your own company listings and situations when licensed status must be disclosed.

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Contractual Forms. I continue to be very pleased with the work of the Contractual Forms Advisory Council. Many forms have been revised and more revisions are on the way. Please note the details elsewhere in this issue.

Statistics

The number of licensees as of August 10, 1999, is as follows:

Brokers - 20,790
Salespersons - 10,009
Business Entities - 2,698
Timeshare Salespersons - 123

1999 Complaint Statistics As of May 21:

Complaints Received - 142
Complaints Closed After Screening - 63
Complaints Closed After Investigation - 102
Complaints Closed With Formal Action - 14

Contractual Forms Revisions

This is the status of the current round of contractual forms revisions:

WB-1 Residential Listing Contract-Exclusive Right to Sell - 4/1/99 (optional use date); 11/1/99 (mandatory use date).

WB-1 Residential Offer to Purchase - 4/1/99 (optional use date); 11/1/99 (mandatory use date).

WB-2 and WB-12 Farm Listing and Offer - should be available soon. These forms will have an optional use date of July 1, 1999 and a mandatory use date of January 1, 2000.

WB-3 and WB-13 Vacant Land Listing and Offer - should be available soon. These forms will have an optional use date of July 1, 1999 and a mandatory use date of January 1, 2000.

WB-4 and WB-14 Condominium Listing and Offer - the revision of these forms is taking longer than anticipated. The revised forms will be available a bit later than those listed above. The mandatory use date will be sometime after the next issue of the Regulatory Digest.

WB-32 Buyer Agency/Tenant Representation Agreement - should be available soon. These forms will have an optional use date of July 1, 1999 and a mandatory use date of January 1, 2000. Note the title change.

WB-40 Amendment to Offer to Purchase - should be available soon. This form will have an optional use date of July 1, 1999 and a mandatory use date of January 1, 2000. This form is a new form which, along with WB-41, will replace WB-43 Amendment/Notice Relating to Offer to Purchase.

WB-41 Notice Relating to Offer to Purchase - should be available soon. This form will have an optional use date of July 1, 1999 and a mandatory use date of January 1, 2000. This form is a new form which, along with WB-40, will replace WB-43 Amendment/Notice Relating to Offer to Purchase.

WB-44 Counter-Offer - should be available soon. This form will have an optional use date of July 1, 1999 and a mandatory use date of January 1, 2000.

WB-46 Multiple Counter Proposal - should be available soon. This form will have an optional use date of July 1, 1999 and a mandatory use date of January 1, 2000. The previous title of this form was Multiple Counter-Offer.

Disciplinary Actions

STEPHEN J. DRUNASKY, BROKER
BEAVER DAM WI

Convicted of a crime substantially related to the practice of real estate. Before renewing his license must appear before the board and provide proof sufficient to the board that he is able to practice as a broker with reasonable safety to the public. Effective 3/25/99. Case #LS9903251REB

WILLIAM C. THOMAS REPRIMAND/
BROKER EDUCATION
MILWAUKEE WI

Failed to collect earnest money within one day of an acceptance; and failed to disclose to the owners or the listing broker that he had not collected the earnest money as required. Effective 5/27/99 Secs. 452.133(2)(a),(b), 452.14(3)(i), Stats. RL 24.07(2), 24.025(1) Case #LS9905274REB

WILLIAM J. KRATZKE REPRIMAND/
BROKER EDUCATION/COSTS
SHOREWOOD WI

Failed to act to protect the public against fraud, misrepresentations and unethical practices; failed to be knowledgeable regarding laws, public policies and current market conditions; failed to assist, guide and advise the buyer based upon these factors. Effective 4/22/99. Sec. 452.14(3)(i), Stats. RL 24.03(2)(a),(b),(c). Case #LS9904223REB

KEVIN WOLDT REPRIMAND/
BROKER EDUCATION
BROOKFIELD WI

Accepted compensation from a person other than his client and without written consent of all parties. Provided brokerage services without an agency agreement authorizing such services. Failed to properly and timely provide a written disclosure of agency. Effective 3/25/99. Secs. 452.133(3)(a), 452.14(3)(i),(L), 452.135(1),(2), Stats. RL

24.025(2), 24.03(2)(b), 24.08, 24.07(8) Case
#LS9903254REB

BURNET REALTY, INC. REPRIMAND/
HUDSON WI FORFEITURE/COSTS

By employing a non-broker branch manager to supervise licensees employed at a branch office, is liable for the acts or omissions of the non-broker branch manager and the licensees. Effective 3/25/99. Secs. 452.12(3)(b), 452.14(3)(i),(4), Stats. RL 17.02(2), 17.10(1) Case #LS9903255REB

TOBIN A. SAURO REPRIMAND/
BROKER EDUCATION
ST. PAUL MN

Not competently supervising the actions of his agents in a manner which safeguards the public interest. Effective 3/25/99. Secs. 452.12(3)(b), 452.14(3)(i),(4), Stats. RL 17.02(2), 17.10(1) Case #LS9903255REB

TOM NIELSEN EDUCATION
SALESPERSON
HUDSON WI

Failed to disclose a material adverse fact, that is that the property was adjacent to an underground water contamination site, designated as a well water advisory area. Effective 3/25/99. RL 24.07(2),(3) Case #LS9903256REB

JESSE MCINTYRE, BROKER REPRIMAND/
JESSE MCINTYRE REALTORS EDUCATION/
DUBUQUE IA FORFEITURE

Failed to loyally represent client interests; failed to properly and timely disclose all material information known to him regarding potential purchasers; failed to appropriately supervise the real estate activities of a salesperson employed by him. Effective 4/22/99. Secs. 452.133(2)(a),(b),(c),(3)(a), 452.14(3)(i),(L), Stats. RL 17.08(1),(2), 24.03(2)(c), 24.08. Case #LS9904222REB

EDWARD J. MOONEY SUSPEND 4 MONTHS/
BROKER EDUCATION/
GENOA CITY WI \$500 COSTS

Failed to deposit earnest money check into trust account within 48 hours of receipt. Misrepresented that buyer was a qualified and financially able buyer after he knew buyer was short on funds and had failed to provide additional funds. Effective 2/25/99. Secs. 452.133(2)(a),(b), 452.14(3)(b),(i),(L), Stats. RL 18.031(1), 24.025(1), 24.07(2),(3). Case #LS9902257REB

CATSON LOVE REPRIMAND/

BROKER \$200 FORFEITURE
MILWAUKEE WI

Failed to report a conviction on his application for a license. Was convicted of being a felon in possession of firearm. Effective 5/27/99. Sec. 452.14(3)(a), Stats. RL 24.17(1),(2) Case #LS9905271REB

MARIA E. ORDONEZ-HINZ REPRIMAND
BROKER \$150 FORFEITURE
MILWAUKEE WI

On 1/1/95 her license expired and she did not renew until 9/19/97. On at least 3 occasions she continued to practice. Filed consent to examine and audit trust account under a trade name which the department never received notice of that trade name. Effective 5/27/99. Secs. 452.03, 452.14, Stats. RL 18.035, 23.02, 20.03, 24.17(3) Case #LS9905273REB

CHERYL STINSON REPRIMAND/
SALESPERSON EDUCATION/
KENOSHA WI COSTS

Provided services which she was not competent to provide; failed to be knowledgeable regarding laws, public policies and current market conditions on real estate matters; and failed to assist, guide and advise the buyer, based upon those factors. Effective 4/22/99. Sec. 452.14(3)(i), Stats. RL 24.03(2)(a),(c) Case #LS9904224REB

GEORGE R. HUXHOLD REPRIMAND/
BROKER EDUCATION/
HUXHOLD REALTY & FORFEITURE/
BUILDERS, INC. COSTS
KENOSHA WI

Failed to appropriately supervise the real estate activities of a salesperson supervised by him. Effective 4/22/99. Secs. 452.12(3)(a), 452.14(3)(i), Stats. RL 17.08(1),(2) Case #LS9904221REB

ROBERT GAFFNEY ADMINISTRATIVE
WENDY GAFFNEY INJUNCTION
WAUSAU WI

Engaged in the construction and sale of residential homes under the business name "Gaffney Construction." The Gaffneys are not real estate brokers. Over the past five years, they have constructed and sold 19 homes. Only ten of the 19 homes were sold by licensed real estate brokers; the remaining homes were sold directly by the Gaffneys. Effective 5/17/99. Sec. 452.17(1), Stats. Case #LS9905171REB

HARLEN W. HEIN, JR. REPRIMAND/
BROKER EDUCATION/\$300 COSTS/
ONALASKA WI \$500 FORFEITURE

Issued checks from 1/97 through 3/98 upon business or trust accounts which contained insufficient funds. Failed to maintain required cash journal; failed to do required account reconciliations, trial balances and validations from 1993 to 1/98. Effective 2/25/99. Sec. 452.14(3)(i), Stats. RL 18.13(1),(2),(3),(4),(5) Case #LS9902256REB

HARRY W. BAKER
BROKER
CRIVITZ WI

VOLUNTARY
SURRENDER

Used a title of State Certification # and other language in appraisals of real estate suggesting that he is certified and/or licensed and engaged in the practice of real estate appraisal without a license, all in support of fraudulent mortgage loan applications of another

individual. Effective 3/25/99. Secs. 452.14(3)(i), 458.055(3),(4), Stats. RL 24.17(1) Case #LS9903252REB

MARK W. SCHULTZ
BROKER
SPOONER WI

REPRIMAND/
EDUCATION
COSTS

Failed to properly disburse trust funds, leaving a balance in the trust account after the transactions closed; failed to maintain a required ledger; failed to do required monthly trial balances and validations from 1997 until 11/5/98. Effective 3/25/99 RL 18.09, 18.13(2),(4),(5) Case #LS9903253REB

1999-2000 REAL ESTATE CONTINUING EDUCATION REQUIREMENTS

All licensees, except those who were issued **either a Wisconsin broker's or a salesperson's license after January 1, 1999**, must satisfy the continuing education requirement during 1999-2000 in order to renew their license in a timely manner in the fall of 2000. The license renewal deadline is December 31, 2000. Licensees may complete the 1999-2000 continuing education after that date; however, their license may not be renewed until they complete the education and pay a late renewal fee and they may not engage in the practice of real estate after that date.

There are 2 alternatives for completing the requirement:

Alternative # 1 Continuing Education Courses Approved by the Department

Four courses of at least 3 hours in length at a school approved by the Department. The 4th Course ONLY has options, which relate to specific areas of practice. **The Department must approve all courses before a school may grant a certificate of attendance to a licensee.**

- Course 1 Contract Law and Use of Approved Forms (Everyone must take.)
- Course 2 Buyer Agency and Ethics (Everyone must take.)
- Course 3 New Developments (Everyone must take.)
- Course 4A General Real Estate Elective (Everyone must take this elective **OR** one of the other 4 electives.)
- Course 4B Supervising Broker Elective (Everyone must take this elective **OR** one of the other 4 electives.)
- Course 4C Commercial Elective (Everyone must take this elective **OR** any of the other 4 electives.)
- Course 4D Property Management Elective (Everyone must take this elective **OR** one of the other 4 electives.)
- Course 4E Rural/Farm/Vacant Land Elective (Everyone must take this elective **OR** one of the other 4 electives.)

Alternative # 2: Continuing Education Test-Out Exam

This alternative will be available from July 1, 1999, until June 30, 2000. An exam brochure and application form is available from the Department. Course study materials may be purchased from the Department for \$6.00. A study guide (including course study materials and practice questions may be purchased from the Wisconsin Realtors Association (608) 241-2047. Members: \$20.30; non-members: \$28.75.

Rule Changes Relating to Late Renewals

Revised real estate rules went into effect on September 1, 1999. The general principles regarding renewing a real estate license, within 5 years after the date of expiration, remain the same. The licensee must pay the usual renewal fee, pay a late filing fee, and complete the continuing education requirement from the previous 2-year licensing period. The old rule permitted licensees to complete several portions of the pre-license

salespersons course in lieu of the continuing education from the previous 2-year licensing period, i.e. any 8 of the 15 hours in s. RL 25.03 (3) (h) **(note: this is the segment on real estate contracts)**, and the 4 hours of education in RL 25.03 (3) 9 (m) **(note: this is the segment on ethical real estate practices)**. The new rule gives a licensee an additional alternative to satisfy the education in lieu of taking the education from the previous 2-year licensing period, i.e. the educational program in RL

25.035 (2) (**note: this is the 13-hour salesperson's course designed for out-of-state applicants**).

Rule Changes Relating to Distance Education

Revised real estate rules went into effect on September 1, 1999. These changes inaugurated many new ways of obtaining pre-license and continuing education. Approved schools may continue to offer classroom education. Classroom education is that education that has an instructor or a proctor available to check attendance and make sure the students actually are present for the education. Classroom education is often referred to as that education that is presented in an environment controlled by the approved school. Classroom education includes courses taken by television where the instructor can see and hear the students who are located at out-reach locations and the students can see and hear the instructor, as well as the students at other locations.

Distance education refers to courses taken on CD-ROM, by the Internet, by videotape, by audio tape and other combinations of electronic media. Licensees will be able to complete the education in a school, in their home or in an office.

The approval of distance education courses will make it much easier for licensees to complete the education in a manner and at a time that best fits their own needs and circumstances. Approved schools will be required to complete an application for approval of distance learning courses and schools will be required to describe the procedures they will follow to maintain the integrity of distance learning education.

It is going to be a bit difficult to decide how to properly refer to the required courses. Strictly speaking, the courses will no longer be approved for a specific number of hours. Nevertheless, we will probably still find ourselves referring to the 3-hour, 13-hour, 72-hour or 36 hour course, for the sake of convenience. On the other hand, we may eventually start referring to the courses as the "broker's pre-Department of Regulation and Licensing Real Estate Board P.O. Box 8935 Madison, WI 53708-8935

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license course," "the salesperson's pre-license course," "the broker's out-of-state course" and the "salesperson's out-of-state course." The 12-hour continuing education program is simply the "continuing education program." Specific segments may simply be referred to by their module or course number.

Reciprocal Broker's Exam

The Department has developed a state portion of the broker's exam for out-of-state applicants. However, the broker's exam will not be a two-portion exam like the salesperson's exam. To avoid confusion about the Reciprocal Broker's Exam, please note the following clarification of procedures for applicants licensed in another licensing jurisdiction:

Salesperson applicant: complete the salesperson's out-of-state course and take the state portion of the salesperson's exam.

Broker applicant: complete the salesperson's out-of-state course (plus the broker's out-of-state course at this time or later), take the state portion of the salesperson's exam, complete the broker's out-of-state course and take the Reciprocal Broker's Exam.

Reciprocal Agreement With Illinois

Wisconsin has been working on a reciprocal agreement with the State of Illinois for quite some time. We are getting closer to an agreement; however, there is still a hurdle which may take some time to surmount. Meanwhile, applicants may take advantage of the following change: applicants who are licensed in another state (or have been within 2 years before applying for a license in Wisconsin) must simply complete the 13-hour course for a salesperson's license or the 3-hour course for a broker's license (note, however, that a broker applicant must always satisfy the salesperson's requirement before taking the broker's exam).

REGULATORY DIGEST

Bulk Rate
U.S. Postage
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Telephone Directory

The Division of Business Licensure & Regulation has a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is:

(608) 266-5511

After dialing this number you are asked to press 1, 2, 3 or 4. For the following requests, please press extension numbers as noted:

Applications Processing	Ext. 43
Education	Ext. 442
Name/Address Changes	Ext. 442
Practice Questions	Ext. 32
Complaint Forms	Ext. 12
Application Forms	Ext. 11
Fax Number	(608) 267-3816

Digests on Web Site: November, 1997; June, 1998; November, 1998, April, 1999.

Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>
Send comments to dorl@drl.state.wi.us

Board Meetings

October 22 and December 9, 1999; January 28, February 24 and March 23, 2000.

Wisconsin Statutes and Code

Copies of the Real Estate Board Statutes and Administrative Code can be ordered from the Department. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated March, 1998.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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